IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2523 OF 2006
IN
SUIT NO.3268 OF 2005

Alcon Inc & Anr. ..Plaintiffs.
Vs.
Shelon Pharmalabs
Pvt. Ltd. & Ors. ..Defendants.

Mr.Nishad Nadkarni i/b.M/s.D.S.K.Legal for the Plaintiff.
None for the Defendants.

CORAM : S.J. VAZIFDAR, J.
DATED : 30TH OCTOBER, 2007

P.C. :

Defendant No.2 has been served. The Plaintiffs have experienced some difficulty in serving Defendant Nos.1 and 3.

2. The Notice of Motion is allowed to be withdrawn as against Defendant Nos.1 and 3 with liberty to take out a fresh Notice of Motion against the said Defendants.

3. The suit is for infringement and passing of in respect of the Plaintiff’s trade marks TOBREX and TOBRADEX. The Defendants have used the mark TOBEX. The Plaintiff’s marks are registered.

4. By an order dated 7th December, 2005 an

ad-interim order in terms of prayers (a), (b) and (c) had been passed. The same was modified by an order dated 8th December, 2005. The Notice of Motion was finally disposed of by an order dated 25th June, 2007 in terms of the said ad-interim order. The order restrained the Defendants from infringing the Plaintiff's trade mark and from passing of their goods as those of the Plaintiffs. The Court Receiver was also appointed inter-alia to search and seize the infringing material. The order has been executed and the infringing material has also been taken possession of by the Court Receiver.

By this Notice of Motion the Plaintiffs seek disclosure of the records pertaining to the infringing material.

5. The Notice of Motion is made absolute in terms of prayers (a) and (c).

6. Liberty to apply even against Defendant No.2 for the remaining reliefs claimed in this Notice of Motion, after prayers (a) and (c) are complied with.

7. All parties are directed to act on an ordinary copy of this order duly authenticated by the

Associate/Personal Assistant.